



Arnold Schwarzenegger, Governor

State of California
Employment Training Panel

September 3, 2004

TITLE 22 CALIFORNIA CODE OF REGULATIONS

EMPLOYMENT TRAINING PANEL

NOTICE OF PROPOSED RULEMAKING

The Employment Training Panel ("Panel") plans to formally adopt the emergency amendment described below after considering all comments, objections or recommendations regarding the proposed action.

PUBLIC HEARING

The Panel has not scheduled a public hearing on this proposed action. However, the Panel will hold a hearing on October 18, 2004, at the Panel's Sacramento Central office, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or authorized representative, may submit written comments to the Panel relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on October 18, 2004. All comments must be submitted in writing (by mail, fax or e-mail) and received by that time at the Panel's office. Submit comments to:

Margie Miramontes
Employment Training Panel, Legal Unit
1100 J Street, 4th Floor
Sacramento, CA 95814
E-mail: Mmiramontes@etp.ca.gov
FAX (916) 327-5268

PROPOSED REGULATORY ACTION

The Panel proposes to formally amend section 4402.2, Critical Proposal, in Title 22 of the California Code of Regulations (CCR). The Office of Administrative Law (OAL) approved this regulatory action as an emergency on August 17, 2004. This amendment also became effective on August 17, 2004.

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Unemployment Insurance Code, section 10205(m) directs the Panel to adopt by regulation procedures for the conduct of Panel business, including the scheduling and conduct of meetings, the review of proposals, the disclosure of contacts between Panel members and parties at interest concerning particular proposals, contracts or cases before the Panel or its staff, the awarding of contracts, the administration of contracts, and the payment of amounts due to contractors.

The Panel proposes to amend section 4402.2 to clarify the definition of a Critical Proposal; specify that Critical Proposal applications must be initiated by State of California economic development entities; and lists funding eligibility requirements which the Panel may modify on a case-by-case basis for businesses to relocate to California, expand within California or remain in California when faced with potential relocations outside of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law states that the purpose of the Panel's enabling legislation is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy. This employment training program shall foster job creation, minimize employer unemployment insurance costs, and meet the need for skilled workers by providing skills training to those who have remained unemployed, and to potentially displaced workers who would otherwise become unemployment insurance recipients.

It is further the intent of the Legislature that training funded pursuant to these statutory sections and existing regulations make a substantial contribution to the long-term job security of the trainees, and that all training funded through this program result in full-time employment for those successfully completing the training.

Unemployment Insurance Code, section 10205(m) authorizes the Panel to adopt regulations which implement, interpret or make specific section 10200 et seq. of the Unemployment Insurance Code.

The existing regulation specifies that the Executive Director may allow priority treatment for certain types of "Critical Proposals." However, the current regulation does not clearly define the term "Critical Proposal." Furthermore, the existing regulation does not allow the Panel to modify certain funding criteria to meet a company's circumstances. The proposed amendment to the regulation would clarify the definition of "Critical Proposal" and would allow the Panel to modify specific ETP requirements on a case-by-case basis to encourage those businesses recommended by State of California economic development entities to move to California, expand within California or remain in California.

EFFECT OF PROPOSED ACTION

The proposed regulatory action would implement and make specific the Unemployment Insurance Code sections governing operation of the Panel. The Panel program is designed to provide funds for training the California workforce in the skills necessary for California businesses to remain viable and compete in both the national and global economies, while providing workers with good wages and secure employment. The

proposed regulatory action is promulgated to assist the Panel in complying with the legislative priorities of the program. This proposed regulatory action would allow the Panel to offer training incentives for businesses to relocate into, expand within or remain within California, thereby improving the economic climate in California by increasing and retaining a large number of California jobs.

ASSESSMENT STATEMENT

The proposed action has been assessed relative to the extent to which it will create new jobs within California, create new business within California, and encourage the expansion of businesses currently doing business in the State of California. The intent and purpose of the Panel program are to foster job creation, foster retention of high-wage, high-skilled jobs that are threatened by out-of-state competition, train new employees of firms locating or expanding in the state, train displaced workers and develop workers with skills that prepare them for the challenges of a high performance workplace of the future. The proposed amendment to the regulation would allow the Panel to modify specific ETP requirements on a case-by-case basis to encourage businesses recommended by State of California economic development entities to move to California, expand within California or to remain in California. Pursuant to 1 CCR 4, the Panel has determined that the proposed regulatory action may affect small businesses as defined in this section.

The Panel Strategic Plan 2003-2004 and the Annual Report 2002-03 were used as evidence of the beneficial effect which the Panel program has on California business. It is anticipated that the proposed action will also have a beneficial effect on creation of new jobs and new business within the State, as well as expansion of businesses currently doing business within the State of California. In Fiscal Year 2003-04, the Panel committed all of its available training funds in furtherance of its unique role of helping businesses in California's basic industries to respond to out-of-state and global competition.

AUTHORITY AND REFERENCE

Unemployment Insurance Code, section 10205(m) authorizes the Panel to promulgate the proposed regulation, which will implement, interpret or make specific sections 10200 and 10205, as follows:

Unemployment Insurance Code, section 10200 authorizes the Panel to fund only projects that meet specific criteria.

Unemployment Insurance Code, section 10205(k) authorizes the Panel to expedite the processing of contracts for firms considering locating or expanding businesses in the state, as determined by the Technology, Trade and Commerce Agency.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

The Panel has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact on directly affected businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Panel has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The Panel is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

LOCAL MANDATE DETERMINATION

The Panel has determined that the proposed regulatory action does not impose any mandate on local agencies or school districts. The Panel has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Furthermore, the Panel has determined that the proposed regulatory action does not impose costs on any local agency or school district which must be reimbursed in accordance with Government Code section 17561.

COST OR SAVINGS TO STATE AGENCIES

The Panel has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

The Panel has determined that the proposed regulatory action results in no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Panel has made an initial determination that the adoption of this regulation will have no significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The Panel must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Panel, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action. The Panel invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing, if requested, or during the written comment period.

CONTACT PERSONS

Requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based should be directed to:

Terza Rodoni
Employment Training Panel, Legal Unit
1100 J Street, Fourth Floor
Sacramento, California 95814
Telephone: (916) 327-5470

In the event the contact person is unavailable, inquiries regarding the proposed regulatory action should be directed to the following backup contact persons:

Deanna Fong or Margie Miramontes
Employment Training Panel, Legal Unit
1100 J Street, Fourth Floor
Sacramento, CA 95814
Telephone: (916) 327-5470
FAX: (916) 327-5268

Inquiries concerning the substance of the proposed action may be directed to Deanna Fong or Margie Miramontes at the address and phone number specified above.

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATION**

The Panel will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its Sacramento central office, as specified herein. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulation are also available on the Panel's Internet Home Page (<http://www.etp.ca.gov>). As of the date this notice is published in the Notice Register, the rulemaking file consists of: (1) this notice, (2) the proposed text of the regulation, (3) the initial statement of reasons, (4) the Panel Strategic Plan 2003-2004 and the Annual Report 2002-03. Copies may be obtained by contacting Terza Rodoni at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearing, if requested, and considering all timely and relevant comments received, the Panel may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Panel adopts the regulation. Requests for copies of the modified regulation, if any, should be sent to the attention of Terza Rodoni at the address indicated above. The Panel will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on the Panel's Internet Home Page (<http://www.etp.ca.gov>).